

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2018

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.R.C.No.1290 of 2011

Chinnasamy

... Petitioner

Vs.

1.Manivnnan

2.The Inspector of Police
B-10, Selvapuram Police Station
Coimbatore District
Coimbatore
Crime No.948 of 2004

... Respondents

PRAYER: Petition filed under Section 397 and 401 of Criminal Procedure Code to set aside the order passed by the Learned Additional District Sessions Judge, Fast Track Court No.1, Coimbatore and to restore the conviction to the first respondent passed by the Learned Judicial Magistrate No.V, Coimbatore.

For Petitioner : Mr.D.Krishnamurthy
for M/s.C.Ramkumar

For Respondents : Mr.R.Ravichandran
Government Advocate for R2

Ms.R.Hemalatha
for M/s.C.Praksam for R1

ORDER

Aggrieved over the order of acquittal passed by the First Appellate Court, the present Criminal Revision came to be filed by the defacto complainant, challenging the order of the First Appellate Court.

2.The case of the prosecution in nutshell is as follows:

PW1 has paid a sum of Rs.1,50,000/- to the accused for securing a job in the Transport Department. The above said amount was paid in three instalments. As the accused could not secure the job, the defacto complainant requested the accused to

return the amount paid by him. The accused also gave a cheque for Rs.80,000/- drawn on Tamil Nadu Mercantile Bank, Kumarapalayam Pudur.

3.The prosecution has examined PW1 to PW7 and Ex.P1 to Ex.P10 and MO1 were marked.

4.The Trial Court convicted the accused under Section 420 IPC and sentenced him to undergo S.I. for a period of two years and to pay a fine of Rs.5,000/- in default to undergo S.I. for one month. However, the First Appellate Court allowed the appeal and acquitted the accused.

5.Heard the counsel on either side and perused the materials. The Revision Court cannot re-appreciate the evidence unless the judgment or the order passed by the Trial Court is perverse and totally against the law.

6.The First Appellate Court has found that there is no mention in the evidence of PW1 about whom he has given the money and what are the dates he has given money to the accused. The First Appellate Court also considered the delay of five years in lodging the complaint. Though the cheque said to have been issued by the accused is dishonoured, no prosecution was lodged under Section 138 of Negotiable Instruments Act, 1881.

7.Having found the discrepancies and also found that the earlier statement of the PW1 in writing is also not filed by the prosecution, the First Appellate Court acquitted the accused. When the First Appellate Court has rightly arrived at a conclusion on proper appreciation of the evidence, this Revision Court cannot interfere with the order passed by the First Appellate Court.

8.Accordingly, this Criminal Revision is dismissed.

kas

Sd/-

Assistant Registrar (CSVIII)

/TRUE COPY/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.V
Coimbatore

2. Do Thro to Chief Judicial Magistrate,
Coimbatore.

3.The Additional District Sessions Judge
Fast Track Court No.1
Coimbatore

4.The Principal Sessions Judge,
Coimbatore.

5.The Inspector of Police
B-10, Selvapuram Police Station
Coimbatore District
Coimbatore
Crime No.948 of 2004

6.The Public Prosecutor
High Court of Madras
Chennai 600 108

+1CC to C.PRAKASAM Advocate SR.NO.17614

CRL.R.C.No.1290 of 2011

MG[CO]
MK:26/03/2018



WEB COPY